



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 22-1

June 1, 2022

Petition of the State 911 Department for Approval of Fiscal Year ("FY") 2022 Expenditures, FY 2023 Development Grant Amount, FY 2023 Incentive Grant Regional PSAP Three to Nine Communities Category Percentage, and FY 2023 Incentive Grant Regional Emergency Communications Center Category Percentage.

FINAL ORDER

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TABLE OF CONTENTS

I.	<u>INTRODUCTION AND PROCEDURAL HISTORY</u>	1
II.	<u>ANALYSIS AND FINDINGS</u>	2
	A. <u>Analysis of FY2022 Projected Expenditures</u>	5
	1. <u>Administration</u>	5
	2. <u>Grant Programs</u>	7
	3. <u>9-1-1 Administration and Operation</u>	9
	a. <i>NG911</i>	10
	b. <i>Statewide Radio Infrastructure</i>	10
	4. <u>Accessibility and Other Programs</u>	14
	5. <u>Conclusion</u>	15
	B. <u>Analysis of FY2023 Development Grant Amount</u>	15
	C. <u>Analysis of FY2023 Incentive Grant for Regional PSAPs Serving Three to Nine Communities</u>	17
	D. <u>Analysis of FY2023 Incentive Grant for Regional Emergency Communication Centers</u>	19
III.	<u>ORDER</u>	20

I. INTRODUCTION AND PROCEDURAL HISTORY

On March 3, 2022, the State 911 Department (“911 Department”) petitioned the Department of Telecommunications and Cable (“DTC”) for approval of increases to certain budgetary items, as outlined by statutory requirements (“Petition”). Specifically, the 911 Department requests approval for increases to: (1) projected Fiscal Year (“FY”) 2022 expenditures; (2) FY2023 Public Safety Answering Point (“PSAP”) Regional Development Grant (“Development Grant”) amount; (3) FY2023 Incentive Grant Regional PSAP Three to Nine Communities Category Percentage; and (4) FY2023 Regional Emergency Communications Center (“RECC”) Category Percentage. The DTC has 90 days to review and issue a final decision on the Petition before these requests are deemed approved. *See* G.L. c. 6A, §§ 18B(i)(4)(5), 18H(c).

The DTC issued its first set of Information Requests (“IRs”) to the 911 Department on March 25, 2022. First Set of Info. Requests of the DTC to the State 911 Dep’t (Mar. 25, 2022). The 911 Department filed its responses on April 6, 2022. Responses to First Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 6, 2022) (“IR 1-1 through IR 1-27”). The DTC submitted its second set of IRs to the 911 Department on April 15, 2022. Second Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 15, 2022). The 911 Department filed its responses on April 27, 2022. Responses to Second Set of Info. Requests of the DTC to the State 911 Dep’t (Apr. 27, 2022) (“IR 2-1 through IR 2-23”). The 911 Department submitted proof of its publication of the Notice of Hearing on May 3, 2022. 911 Department’s Proof of Publication (May 3, 2022).

On May 11, 2022, the DTC conducted a public and evidentiary hearing on these matters via the Microsoft Teams videoconferencing platform. Notice of the hearing was published in the

Boston Globe on March 25, 2022. *See generally* Transcript of Record (“Tr.”). On March 30, 2022, the DTC received a Notice of Intervention and Appearance from the Office of the Attorney General. At the evidentiary hearing, the DTC recognized the Attorney General’s intervention. *See* Tr. at 4. The Attorney General submitted comments on the Petition on May 11, 2022.

On May 20, 2022, the 911 Department responded to two Record Requests the DTC issued at the evidentiary hearing. Responses to Record Requests of the DTC to the State 911 Dep’t (May 20, 2022) (“RR-1” and “RR-2”). In this Order, the DTC approves the 911 Department’s projected FY2022 expenditures, the FY2023 Development Grant amount, the FY2023 Incentive Grant Regional PSAP Three to Nine Communities Category Percentage, and the FY2023 RECC Category percentage.¹

II. ANALYSIS AND FINDINGS

State law requires the 911 Department to petition the DTC for approval of certain budgetary expenditures and percentage allocations for funds disbursed from the Enhanced 911 Fund (“Fund”). In particular, the 911 Department must petition the DTC if: (1) projected total expenditures exceed total expenditures of the previous fiscal year by 10% or more; (2) the Training Grant allocation equals or exceeds 7.5% of the total 911 service surcharge (“surcharge”) revenues of the previous fiscal year; (3) the Support Grant allocation equals or exceeds 31.25% of the total surcharge revenues of the previous fiscal year; (4) the Wireless State Police PSAP Grant allocation equals or exceeds 6% of the total surcharge revenues of the previous fiscal year; (5) an adjustment to the percentage of the prior fiscal year’s total surcharge

¹ The 911 Department also requested that the DTC consider the Petition as satisfying for FY2022 the requirement under G.L. c. 6A, § 18H(b) that the 911 Department report annually to the DTC on the financial condition of the Fund. Petition at 1 n.1. The DTC recently clarified this requirement. *Petition of the State 911 Dep’t, D.T.C. 20-1, Final Order* at 16 (May 26, 2020) (“20-1 Order”). The DTC grants the 911 Department’s request.

revenues allocated to one or more of the four Incentive Grant categories² results in total projected expenditures for the combined Incentive Grants that exceed the initial total Incentive Grants allocation of \$2,660,294 by 10% or more; or (6) the projected expenditures for the Development Grant exceed the initial total Development Grant allocation of \$7.5 million by 10% or more. G.L. c. 6A, §§ 18B(i)(1)-(5), 18H(c); *see also Petition of the State 911 Dep't*, D.T.C. 19-2, *Final Order* (May 16, 2019) (“19-2 Order”) at 3.

State law also requires that expenditures from the Fund be prudently incurred and:

[A]ssociated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the [911 Department] associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the [911 Department] in administering and operating the enhanced 911 system in the commonwealth.

G.L. c. 6A, § 18B(f). Thus, when reviewing 911 Department petitions, the DTC must determine whether the 911 Department’s allocations and expenditures are, or will be, prudently incurred.

See Petition of the State 911 Dep't, D.T.C. 17-1, *Final Order* (Apr. 10, 2017) (“17-1 Order”) at 3-6; *Petition of the State 911 Dep't*, D.T.C. 10-1, *Order* (Apr. 5, 2010) (“10-1 Order”) at 5-6;

G.L. c. 6A, § 18B(f). When examining whether an expense is, or will be, prudently incurred, the

² The statute specifies allocations for each Incentive Grant category as follows: (1) for regional PSAPs serving 2 municipalities, 0.5% of the total surcharge revenues of the previous fiscal year; (2) for regional PSAPs serving 3 to 9 municipalities, 1.0% of the total surcharge revenues of the previous fiscal year; (3) for regional PSAPs serving 10 or more municipalities, 1.5% of the total surcharge revenues of the previous fiscal year; and (4) for RECCs, 2.0% of the total surcharge revenues of the previous fiscal year. G.L. c. 6A, § 18B(i)(4).

DTC assesses whether circumstances, at the time the decision was made, adequately justified the reasonableness of the expense. *See Petition of the Statewide Emergency Telecomms. Bd.*, D.T.C. 07-7, *Order* at 7, 9, 19 (Feb. 8, 2008) (“07-7 Order”). The DTC will not substitute its own judgment for that of the 911 Department as to what is reasonably required to perform the 911 Department’s statutory obligations, and the 911 Department has the authority to determine which categories of equipment, training, and support expenditures it will submit to the DTC for approval. *See Investigation by the Dep’t of Telecomms. & Energy to establish a surcharge*, D.T.E. 03-63-Phase I, *Order* at 16 (July 14, 2003) (finding that although the Statewide Emergency Telecommunications Board (“SETB”)³ must “support the reasonableness of its proposed expenditures, the [Department of Telecommunications and Energy (“DTE”)]⁴ lacks the jurisdiction to tell the SETB what categories of expenditure it is required to propose”). However, even though the 911 Department may decide that a certain expense is needed, all expenses must still be prudently incurred. *See 07-7 Order* at 8. Expenses are deemed prudent if they are necessary for the funding of the 911 Department’s provision of enhanced 911 services and programs in the Commonwealth and, at the same time, maintain a reasonable, stable surcharge level in order to protect the interests of communications service ratepayers. *See Petition of the State 911 Dep’t*, D.T.C. 11-2, *Order* at 4-5 (May 27, 2011) (“11-2 Order”); *07-7 Order* at 9; *Petition of the Statewide Emergency Telecomms. Bd.*, D.T.C. 07-7, *Interim Order* at 7 (Nov. 30, 2007); *Investigation by the Dep’t of Telecomms. & Energy to establish a permanent surcharge*, D.T.E. 06-4, *Order* at 27-28, 35 (Dec. 1, 2006).

³ The SETB was the predecessor agency to the 911 Department and was dissolved on February 1, 2009. *See* 2008 Mass. Acts, c. 223.

⁴ The DTE, the DTC’s predecessor agency, was dissolved on April 11, 2007. *See* 2007 Mass. Acts, c. 19.

A. Analysis of FY2022 Projected Expenditures

The 911 Department requests DTC approval of projected expenditures of \$180,795,328 for FY2022. *See* Updated Exh. A.⁵ Since the 911 Department incurred \$136,740,424 in actual expenditures for FY2021, the 911 Department's projected FY2022 expenditures represent an increase of greater than 10% from the previous fiscal year's spending. *See id.* As discussed above, the 911 Department is required to seek approval for projected total expenditures that exceed the total actual expenditures of the previous fiscal year by 10% or more, and the DTC reviews the reasonableness of such requests by inquiring into whether these expenses are, or will be, prudently incurred. *See* G.L. c. 6A, § 18H(c). The 911 Department's projected expenses for FY2022 are broken out into four categories: (a) Administration; (b) Grant Programs; (c) 9-1-1 Administration and Operation; and (d) Programs. *See* Petition at 4-15, Updated Exh. A. The DTC analyzes the prudence of the projected expenditures in each category below and determines that the 911 Department's projected FY2022 expenditures are necessary in order to provide enhanced 911 services and programs and are, or will be, prudently incurred. The DTC, however, acknowledges the comments of the Attorney General and reiterates the anticipated review of the surcharge no later than calendar year 2023 to affirm the health of the Fund and the sufficiency of the surcharge. *See 19-2 Order* at 22; *20-1 Order* at 22; G.L. c. 6A, § 18H(b); Comments of the Attorney General (May 11, 2022) (asking the DTC to determine the reasonableness of the current surcharge).

1. Administration

The 911 Department's projected FY2022 Administration expenses include Salary Costs,

⁵ The 911 Department provided the most current Exhibit A (hereinafter "Updated Exh. A") in its response to the Record Requests on May 20, 2022. The 911 Department provided earlier versions of Exhibit A with the Petition, and in its response to the DTC's First Set of IRs on April 6, 2022. The projected and final expenditures for FY2021 and the projected expenditures for FY2022 remained the same in each Exhibit A.

Agency Expenses, and Capital Projects, totaling \$7,183,303. *See* Petition at 4, Updated Exh. A. The largest line item in the Administration category is Salary Costs, which the 911 Department projects to be \$5,793,026 for FY2022. *See* Updated Exh. A. This represents a 4.8% increase over the FY2021 actual salary costs of \$5,527,275. *Id.* The 911 Department explains that this increase is needed to cover contractual step increases and cost-of-living adjustments required by union contracts. Petition at 4. The 911 Department offered the same explanation last year to explain a roughly 7.5% increase between FY2021 projected salary costs and FY2020 actual salary costs that the DTC determined was reasonable. *See Petition of the State 911 Dep't*, D.T.C. 21-3, *Final Order* (May 26, 2021) (“*21-3 Order*”) at 5-6.

The second item within the Administration category, Agency Expenses, is comprised of: (1) Employee Reimbursements; (2) Workers Comp; (3) Administrative Expenses; (4) Operational Supplies; (5) Utilities/Space Rental; (6) Consultant Services; (7) Operational Services; (8) Equipment Purchases; (9) Lease, Maintenance, Repair Services; (10) Building Maintenance, Repairs; and (11) IT Services, Equipment.⁶ *See id.*; Updated Exh. A; Petition at Exh. B. The 911 Department’s projected total Agency Expenses for FY2022 are \$1,390,277, which is consistent with the 911 Department’s FY2021 projections of \$1,338,880 – a figure the DTC determined to be reasonable. *See* Updated Exh. A; *21-3 Order* at 5-6.

Capital Projects, the final item within the Administration expenses category, is projected at \$0 for FY2022 because the 911 Department’s planned relocation of the wireless center is delayed until FY2023. *See* Updated Exh. A.

Consistent with the *21-3 Order*, the DTC finds that the 911 Department’s Administration

⁶ These categories and permissible associated expenses derive from the Office of the Comptroller of the Commonwealth, which oversees and implements the Commonwealth’s accounting system. *See 17-1 Order* at 10.

expenses are necessary in order to provide enhanced 911 services and programs and are, or will be, prudently incurred.

2. Grant Programs

Massachusetts law requires the 911 Department to administer several grant programs related to the provision of enhanced 911 services. *See* G.L. c. 6A, § 18B(f), (i). The 911 Department's projected program expenditures for these categories in FY2022 total \$99,320,453.⁷ *See* Updated Exh. A. Massachusetts statute establishes minimum and/or maximum spending levels for several of the 911 Department's grant programs, spending beyond which requires the 911 Department to seek DTC approval. *See* G.L. c. 6A, § 18B(i). Even if the 911 Department's projected expenditures for a particular grant do not exceed the spending minimums or maximums that trigger required DTC approval, the DTC must determine whether projected spending for these grants in FY2022 will be prudently incurred as a part of its review of the 911 Department's total proposed FY2022 expenditures. The DTC reviews the 911 Department's request for approval of the FY2023 Development Grant amount, the FY2023 Regional PSAP Incentive Grant Three to Nine Community Category Percentage, and the FY2023 RECC Category Percentage below. *See infra* Sections II.B-II.D.

The 911 Department proposes no changes to the FY2022 PSAP and RECC Training Grant

⁷ In 2018, the DTC approved increases in FY2019 grant expenditure amounts for the Development Grant and Incentive Grant PSAPs Three to Nine Communities Category. *Petition of the State 911 Dep't*, D.T.C. 18-2, *Final Order* (June 29, 2018) ("*18-2 Order*"). In 2019, the DTC approved an increase in the RECC grant percentage of previous year's surcharge revenue to 10%. *19-2 Order* at 19-20.

(“Training Grant”)⁸ or the FY2022 Support Grant,⁹ as compared to the percentage of surcharge revenue allocations projected for the previous year, which were 3.75% and 18.75%, respectively. *Compare* Exh. B, with D.T.C. 21-3, Updated Exh. B. The percentage amounts projected for both grants remain within their respective approved allocations. *See* G.L. c. 6A, § 18B(i)(1), (2). The DTC approved the establishment of the Emergency Medical Dispatch Grant (“EMD Grant”) with an initial allocation of 3% of the total surcharge revenues of the prior fiscal year. *11-2 Order* at 8-12. Projected FY2022 expenditures for the EMD Grant total 1.14% of FY2021 surcharge revenues, below the initial allocation for this grant. *See id.*; Petition at Exh. B. This allocation, however, is similar to the 1.5% of FY2020 surcharge revenue that the 911 Department spent on the EMD Grant in FY2021, which the DTC approved. *See 21-3 Order* at 8. The DTC determines that expenditures for the Training, Support, and EMD Grants are necessary for the 911 Department to meet its statutory obligations, and, as the FY2022 projections are in line with those previously approved by the DTC, the DTC finds that these projected expenditures are, or will be, prudently incurred.

The 911 Department projects spending the same 2% of the previous year’s surcharge

⁸ The Training Grant is used to “reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators.” G.L. c. 6A, § 18B(i)(1). Massachusetts law calls for the 911 Department to allocate 5% of the prior year’s surcharge revenues to the Training Grant, or other amount determined by the 911 Department and approved by the 911 Commission but not less than 3.75% of the prior year’s surcharge revenues. *Id.*

⁹ PSAP and RECC Support Grant funds are “disbursed according to a formula that weighs both population served and 911 call volume.” G.L. c. 6A, § 18B(i)(2). This grant reimburses: “primary, regional and regional secondary PSAPs and [RECCs] for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and [RECCs] for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional, and regional secondary PSAPs and [RECCs] for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the [911 Department].” *Id.* Massachusetts law calls for the 911 Department to allocate 25% of the prior year’s surcharge revenues to the Support Grant, or other amount determined by the 911 Department and adopted by the 911 Commission but not less than 18.75% of the prior year’s surcharge revenues. *Id.* The “Wireless Direct Grant” amount is now included in the Support Grant.

revenue on the Wireless State Police Grant as it did in FY2021. *Compare* Exh. B, with D.T.C. 21-3, Updated Exh. B. The allocation for this grant remains within the approved range. G.L. c. 6A, § 18B(i)(3). Additionally, for each Incentive Grant, the proposed FY2022 expenditures are within the approved allocations and do not require additional DTC approval under G.L. c. 6A, § 18B(i)(3) and (4). *See 21-3 Order* at 17; *18-2 Order* at 32; *19-2 Order* at 19-20. As to the Incentive Grant for regional PSAPs serving three to nine municipalities, in particular, the DTC has previously approved the 911 Department's FY2022 projection. *21-3 Order* at 17. Because the projected expenditures on each of these grants are within approved allocations, the DTC finds that they are, or will be, prudently incurred.

The 911 Department projects \$22 million in FY2022 spending for the Development Grant. The DTC has previously approved this FY22 projection. *21-3 Order* at 15-17.

The DTC determines, for the reasons discussed above, that the 911 Department's projected grant expenses for FY2022 are necessary in order to provide enhanced 911 services and programs and are, or will be, prudently incurred.

3. 9-1-1 Administration & Operation

The third category of projected FY2022 expenses is "9-1-1 Administration & Operation," which the 911 Department projects to be \$70,717,406 for FY2022. *See* Updated Exh. A. The majority of spending in this category is allocated to Next Generation 911 ("NG911") and the overhaul of the Commonwealth of Massachusetts Interoperable Radio System ("CoMIRS"), which began in FY2018 and will continue until FY2026. *See* Updated Exh. A; Petition at Exh. B. The DTC approved expenditures for the CoMIRS upgrade in 2018. *See generally 18-2 Order*. As discussed below, the DTC determines the 911 Department's projected 9-1-1 Administration & Operation expenses for FY2022 are, or will be, prudently incurred, subject to the conditions the

DTC has placed on such expenditures.

a. *NG911*

The 911 Department began its transition to NG911 in 2009 in response to its mandate to “review and assess new communications technologies that may include, but are not limited to, wireless, video, broadband, and IP-based applications that may serve as the next generation 911 technology platforms, consistent with FCC decisions and federal law.” G.L. c. 6A, § 18B(h). In August 2014, after issuing a Request for Response and undergoing a detailed evaluation process, the 911 Department entered a five-year contract with General Dynamics Information Technology (“GDIT”) for NG911 products and services. *See 18-2 Order* at 11-12. GDIT assigned this contract to Comtech NextGen LLC (“Comtech”) on April 29, 2019, and Comtech renewed the contract for an additional five years. *See Petition* at 8. Deployment of the NG911 system was completed in FY2018, and all PSAPs are now operating on this system. *Id.* The 911 Department’s FY2022 projected spending on both recurring and non-recurring NG911 costs is based upon the 2019 contract with Comtech. *See id.* The DTC finds that the projected FY2022 recurring expenses related to NG911 are contractual, and that both the recurring and non-recurring NG911 expenses are necessary to achieve the 911 Department’s statutorily mandated goals. These FY2022 expenditures therefore are, or will be, prudently incurred.

b. *Statewide Radio Infrastructure*

The 911 Department projects that it will spend \$22,128,002 in FY2022 on the ongoing overhaul of CoMIRS, representing a significant increase from the \$6,797,752 the 911 Department spent in FY2021. *See Updated Exh. A.* CoMIRS is an existing statewide interoperable radio network that serves as the primary communications tool for many public safety first responders including the Massachusetts State Police. *See Petition* at 9-10. As such,

PSAPs utilize the CoMIRS network to quickly and efficiently dispatch and relay emergency 911 information to first responders. *See id.* The 911 Department detailed four major cost elements to CoMIRS: building the digital network, upgrading user radios, seeking purchase documents, and expanding usage of the network for the radio network modernization project. IR 2-12. The first three of the major cost elements were the basis of the original request for \$125 million in CoMIRS funding, while the fourth cost element has been realized more recently. *See* Tr. at 23; *18-2 Order*.

Through prior orders, the DTC has ensured that 911 surcharge funds are not used on CoMIRS expenses unrelated to 911 functions. *See, e.g., 21-3 Order* at 11-12. For example, the DTC directed the 911 Department to develop detailed formal guidance for the project administrator, the Executive Office of Technology Services and Security (“EOTSS”), on how to determine whether an expenditure is related to 911 dispatch. *See 20-1 Order* at 15. The DTC also directed the 911 Department to include in its annual reports going forward, detailed information on compliance with these guidelines, including a detailed account of CoMIRS project updates, a detailed list of current fiscal year CoMIRS expenditures separate from its general operational expenditures, and a detailed list of funding sources for the CoMIRS project including the total CoMIRS cost and the funding contribution from each source. *See id.* at 16. Finally, the DTC directed the 911 Department to file copies of the quarterly reports due to it from EOTSS under the entities’ interdepartmental service agreement (“ISA”). *Id.*

The DTC again finds that the 911 Department has complied with the above directives, which has illuminated how the 911 Department and EOTSS continue to ensure that 911 surcharge funds are spent only on 911 functions. *See* D.T.C. 20-1, 911 Dep’t Response to the DTC Order (Sept. 9, 2020) (providing the requested EOTSS Guidance Document); D.T.C. 20-1,

FY2021 Annual CoMIRS Report (Nov. 9, 2021); D.T.C. 20-1, CoMIRS Report - First Quarter FY2022 (Nov. 9, 2021); D.T.C. 20-1, CoMIRS Report - Second Quarter FY2022 (Feb. 4, 2022); D.T.C. 20-1, CoMIRS Report - Third Quarter FY2022 (May 6, 2022). The 911 Department has the appropriate mechanisms in place to monitor EOTSS's use of 911 surcharge funds.

In this proceeding, the 911 Department stated that although it originally projected the cost of CoMIRS subscriber unit replacements and upgrades to be about \$75 million, it has realized approximately \$50 million in savings due to fewer total subscribers needing replacements and lower per-unit costs. Petition at 12-13; IR 1-3. Given the steady overall cost of the CoMIRS project, the DTC sought to understand how these savings have been distributed throughout the other categories of CoMIRS spending. IR 1-3. The 911 Department identified an increase of \$32.1 million for radio infrastructure costs and \$18.5 million for site infrastructure improvements, primarily tower and foundation improvement. *Id.* The largest portion of these increases occurred because of an increase in the number of planned simulcast regions for the CoMIRS system, enhanced cybersecurity, greater backhaul redundancy, the need to make planned radio communications towers structurally sound, and the addition of 61 operable users from Franklin County to the system. *Id.* Overall, the CoMIRS project is now estimated to cost approximately \$2.5 million less than budgeted in the 2017 CoMIRS Radio Modernization Strategy Report. *Id.*

The DTC also inquired about the balance of CoMIRS responsibilities between EOTSS and the 911 Department. Understanding this balance is critical to the DTC's oversight role. For expenditures included in EOTSS's FY2021 annual report to the 911 Department, EOTSS approved all expenditures in accordance with its ISA with the 911 Department. IR 1-8. The 911 Department's witness stated that all CoMIRS invoicing is processed through EOTSS, pursuant to

the ISA between EOTSS and the State 911 Department. Tr. at 20. The DTC requested an explanation for how EOTSS and the 911 Department balanced their responsibilities at each stage of the project. On a day-to-day basis, EOTSS is responsible for overseeing the CoMIRS program. Tr. at 23. At the beginning of the project, the 911 Department established its project expectations, which were codified into the ISA, and the 911 Department works with EOTSS daily to build the digital network. *Id.* EOTSS ensures that project milestones are in line with the funding that the 911 Department oversees. *Id.* at 23-24. The 911 Department also has real-time access to EOTSS activity as work on the project is completed so that the agencies can discuss any issues that arise. *Id.* at 24. The DTC finds that the relationship between the 911 Department and EOTSS continues to ensure that 911 surcharge funds are spent in compliance with applicable law.

Finally, the DTC inquired about the role that the Executive Office of Public Safety and Security (“EOPSS”) will continue to maintain regarding the CoMIRS system. The DTC learned that the analog CoMIRS system will remain in operation at least through the planned statewide implementation of the new digital CoMIRS system in 2026. IR 2-14. EOPSS and the Massachusetts State Police fund the analog CoMIRS maintenance contract. *Id.* The Massachusetts State Police determines whether to renew the contract on an annual basis. *Id.* EOTSS and the Massachusetts State Police have differing responsibilities on the new system. Tr. at 28-30. EOTSS is responsible for approving upgrades under the CoMIRS radio upgrade program. IR 1-10(c). EOTSS clarified that EOPSS and the Massachusetts State Police are responsible for the operational decisions for the system. Tr. at 28. “What [EOTSS] is responsible for and what we have been helping out with, is to bring our expertise for technology projects to try to build out and implement as quickly as possible and effectively as possible the new

system.” *Id.* EOTSS added that it is “doing design, project management and oversight from a technology perspective[, while] deferring to the public safety community for the operational decisions and planning on the use of the system.” *Id.* at 31. The DTC finds that this division of responsibilities is helpful for ensuring the proper use of 911 surcharge funds on the CoMIRS system.

Subject to and consistent with the findings and conditions the DTC has placed on the use of 911 surcharge funds for CoMIRS, the DTC finds that the 911 Department’s proposed FY2022 expenditures on the CoMIRS project are, or will be, prudently incurred.

4. Accessibility and Other Programs

The final category of projected expenses in FY2022 is accessibility and other programs, for which the 911 Department projects \$3,574,166 in expenditures. *See* Updated Exh. A. This category comprises line items for training, public education, SCPE (specialized customer premise equipment), relay (telecommunications relay service or TRS), and CapTEL (captioned telephone service). *Id.*

The largest increase in this category comes under the CapTEL line item. *Id.* In 2019, the Department of Corrections (“DOC”) entered into a settlement agreement with the Department of Justice, requiring the DOC to provide inmates with CapTEL services and devices. IR 1-17; Tr. at 57. This agreement has resulted in increased CapTEL access and usage, from a projected expenditure of \$450,000 in FY2021, to a projected expenditure of \$1,825,387 in FY2022. Updated Exh. A; IR 1-17; Tr. at 57. The 911 Department is billed for these services through a pre-existing contract. IR 1-17. The FY2021 actual CapTEL expenditures of \$832,592, an 85% increase from the FY2021 projection, demonstrates the unanticipated nature of these costs. *See* Updated Exh. A. As the 911 Department has statutory responsibility to administer CapTEL

services, the DTC finds the projected expenditures to be prudently incurred. *See* G.L. c. 166, § 15E. The 911 Department has also stated that it is exploring options with the DOC and EOPSS to seek relief from these fiscal obligations. Tr. at 57-58. The DTC encourages the 911 Department to continue to pursue these options.

The DTC finds that the 911 Department's projected FY2022 expenses associated with these programs are necessary to provide enhanced 911 services and adequately fund the programs, and are, or will be prudently incurred.

5. Conclusion

The DTC determines that the 911 Department's projected FY2022 expenditures are reasonable and are, or will be, prudently incurred, consistent with the above. Accordingly, the DTC approves the expenditures pursuant to G.L. c. 6A, § 18H(b) and (c).

B. Analysis of FY2023 Development Grant Amount

The 911 Department seeks approval of its proposal to increase the Development Grant allocation to \$30 million for FY2023. *See* Petition at 16-17. The 911 Department projected Development Grant expenditures of \$15 million for FY2019 and FY2020, \$18 million for FY2021, and \$22 million for FY2022, with projected Rollover Development Grant expenses for FY2022 of \$8,616,120, which covers grants awarded in prior fiscal years but not yet disbursed. *See* Updated Exh. A; *21-3 Order* at 15. State law requires the 911 Department to obtain DTC approval of any adjustment in the Development Grant that increases the initial funding allocated to the Development Grant, \$7.5 million, by 10% or more. G.L. c. 6A, § 18B(i)(5).

The Development Grant is designed to support PSAP regionalization, which helps achieve the goal of maintaining an efficient and consistent enhanced 911 service. *See* G.L. c. 6A, § 18B(i)(5). The Development Grant was established by statute to “support the development and

startup of regional and regional secondary PSAPs and [RECCs], including the expansion or upgrade of existing regional and regional secondary PSAPs.” *Id.* The purpose of the Development Grant is to “maximize effective emergency 911 and dispatch services as well as regional interoperability.” *Id.* In accordance with statutory requirements, the 911 Department has established guidelines regarding “[t]he eligibility for criteria, amount and allocation of funding” with the approval of the State 911 Commission. *Id.*; *see also 17-1 Order* at 14. On November 18, 2021, the State 911 Commission voted unanimously to authorize the 911 Department to seek DTC approval of a \$30 million allocation amount for FY2023. *See* Petition at 17.

The 911 Department stated that it reviewed prior year Development Grant applications and determined that an increase was warranted to further support regionalization efforts. IR 2-7. Although only \$14,424,366 was spent in FY2021, many of the projects funded by this grant are complex and take place over multiple fiscal years. Petition at 7-8. Demand exists among PSAPS for further regionalization. *See id.* Particularly, the increase in Development Grant funds will allow the 911 Department to regionalize PSAPs in an expedited fashion. IR 2-7. The 911 Department continuously receives funding requests that far exceed the total amount allocated to the Development Grant. *See* Petition at 16; *19-2 Order* at 18; *17-1 Order* at 27-28. In FY2022, the 911 Department has received Development Grant requests totaling \$39,794,023, almost twice the amount allocated in FY2021 to the grant and more than four times the amount initially allocated. *See* Petition at 17. The 911 Department states that, as of the date of the Petition, 49 PSAPs have become regionalized through either a regional PSAP or a RECC since the Development Grant program began, and that it expects at least 12 additional PSAPs to regionalize over the next five years. *See id.* at 8. The 911 Department provided a list of the PSAPs that have closed since the Development Grant began in 2009 and the regional PSAP or RECC each formed or joined. IR 2-5.

Further, statutory changes since the creation of the Development Grant have facilitated municipalities' efforts to establish regional PSAPs and RECCs through the creation of regional 911 emergency communication districts. *See* 2014 Mass. Acts, c. 500 (codified at G.L. c. 6A, §§ 18O-18V (2015)).

The 911 Department states that regionalized PSAPs and RECCs enable more efficient and effective use of resources and improve public safety for the residents they service. *See* Petition at 17. For instance, combined emergency communication resources “allows for increased staffing” and “for increased coordination of a region’s limited emergency response resources.” *Id.* This permits 911 telecommunicators “to more effectively interact with the public while gathering essential call information,” and permits “more efficient response to both routine requests for mutual aid and major disasters.” *Id.*

The DTC has encouraged the 911 Department to identify the savings produced in other areas of its budget due to PSAP regionalization. *See 19-2 Order* at 11; *20-1 Order* at 19; *21-3 Order* at 9. In this proceeding, the 911 Department identified one such area, stating that PSAP equipment costs were approximately \$28 million in FY2009 and approximately \$5 million in FY2021. *See* RR-1. The DTC finds that the 911 Department’s requested Development Grant allocation amount is necessary to meet its statutory obligation to maximize effective 911 services and regional interoperability, and that expenditures related to this funding level will be prudently incurred. Accordingly, the DTC approves the Development Grant allocation of \$30 million for FY2023.

C. Analysis of FY2023 Incentive Grant for Regional PSAPs Serving Three to Nine Communities

The 911 Department seeks approval of its proposal to increase the percentage allocation for the FY2023 Incentive Grant for regional PSAPs serving three to nine municipalities from 2% to

3%. Petition at 17-18. The original amount allocated for this category was 1% until the DTC approved an increase to 1.5%. *See 18-2 Order* at 32; G.L. c. 6A, § 18B(i)(4). In 2021, the DTC approved an increase to 2% for this grant for FY2022. *See 21-3 Order* at 17. The 911 Department now seeks approval of an increase to 3% of the total surcharge revenue of the previous year. Petition at 17-18.

The 911 Department projects FY2023 expenditures for this grant of \$4,851,149, up from a projected \$3,222,804 in FY2022. *See* Exh. B. The statute established the Incentive Grant to “provide regional PSAPs and [RECCs] with funds in addition to amounts allocated as part of the [Support Grant]” for reimbursement of allowable expenses, as specified in the Support Grant. G.L. c. 6A §, 18B(i)(4). These grants were established to foster the development of regional PSAPs and RECCs. *See id.* § 18B(i). The 911 Department indicates that its request is largely to accommodate the additional communities that are anticipated to be added to the Norfolk County PSAP. Tr. at 61. For example, Norfolk County will be adding the Sherborn PSAP in FY2023. *Id.* at 61-62. In addition, Norfolk County is in discussions with other communities about regionalization. *Id.* at. 62. The Barnstable County PSAP also falls in this grant category and could bring in other communities on Cape Cod as well. *Id.* The increased allocation percentage will ensure that the grant amount covers this anticipated growth. *See id.* at 62-63.

Given the potential for the addition of communities to regional PSAPs in this category, the DTC determines that the 911 Department reasonably believes that expenditures related to an increase in the FY2023 Incentive Grant for Regional PSAPs Serving Three to Nine Communities to 3% of the total surcharge revenues of the previous fiscal year are required to perform the 911 Department’s statutory obligations. Indeed, the statute contemplates an increased percentage as more regionals PSAPs are added. G.L. c. 6A, § 18B(i)(4). Accordingly, the DTC finds that the

expenditures will be prudently incurred and approves the requested allocation increase for FY2023.

D. Analysis of FY2023 Incentive Grant for Regional Emergency Communication Centers

The 911 Department seeks approval of its proposal to increase the percentage allocation for the FY2023 Incentive Grant for RECCs from 10% to 12% of the previous year's surcharge revenues. Petition at 20. In 2019, the DTC approved an increase to 10% of the previous year's surcharge revenues. *19-2 Order* at 19-20. This grant started at 2% of the previous year's surcharge revenues. G.L. c. 6A, § 18B(i)(4). The 911 Department now seeks approval of an increase to 12% of the total surcharge revenue of the previous year. Petition at 20.

The 911 Department projects FY2023 expenditures for this grant of \$19,404,596, up from a projected \$16,114,022 in FY2022. *See* Exh. B. The 911 Department states that the increased percentage will maximize effective enhanced 911 services and regional interoperability. *See* Petition at 20. The 911 Department stated that this increased percentage will lead to a more effective and efficient use of resources and ultimately improve public safety. *See id.*; *supra* Section II.B (discussing the goal of increased regionalization). The 911 Department noted that the increased percentage is also necessary because “most of the regional [PSAPs] that we have been seeing that have come to fruition are in that category, the RECC category. It is our biggest category.” Tr. at 64. The 911 Department wants this category to continue to grow so all tasks associated with 911 dispatch can be “under one roof.” *Id.*

Given these changes, the DTC determines that the 911 Department reasonably believes that expenditures related to an increase in the FY2023 RECC Incentive Grant to 12% of the total surcharge revenues of the previous fiscal year are required to perform the 911 Department's statutory obligations. Indeed, the statute contemplates an increased percentage as more RECCs are added. G.L. c. 6A, § 18B(i)(4). Accordingly, the DTC finds that the expenditures will be prudently

incurred and approves the requested allocation increase for FY2023.

III. ORDER

Accordingly, after notice, hearing, and due consideration, it is:

ORDERED: That the 911 Department's proposed FY2022 expenditures are APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustment to the Development Grant for FY2023 is APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustment to the FY2023 Incentive Grant for Regional PSAPs Serving Three to Nine Communities is APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustment to the FY2023 Incentive Grant for Regional Emergency Communication Centers is APPROVED; and it is

FURTHER ORDERED: That the Petition satisfies the requirement of G.L. c. 6A, § 18H(b) that the 911 Department file an annual report on the financial condition of the Enhanced 911 Fund for FY2022.

By Order of the DTC,



Karen Charles Peterson
Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.